

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

LUIS LARRY HILL,

Plaintiff,

vs.

Civ. No. 97-639 M/DJS

KENNETH APFEL, Commissioner of  
Social Security,

Defendant.

**MAGISTRATE JUDGE'S ANALYSIS AND RECOMMENDED DISPOSITION<sup>1</sup>**

1. Plaintiff filed his Complaint for Social Security Disability Benefits on May 6, 1996. On March 22, 1999 Plaintiff's Complaint was dismissed without prejudice on the grounds that Plaintiff had failed to file any pleading with the Court pursuant to a briefing schedule entered August 17, 1998. On April 14, 2000 Plaintiff filed a Motion for Relief from Judgment in Claim for Social Security Disability Benefits. Plaintiff argues that he has diligently searched for counsel but has been unable to retain counsel until March of 2000.

2. The Court will recommend that Plaintiff's Federal Rule of

---

<sup>1</sup>Within ten (1) days after a party is served with a copy of these proposed findings and recommendations, that party may, pursuant to 28 U.S.C. Section 636(b)(1), file written objections with the clerk of the district court to such proposed findings and recommendations. A party must file any objections within the ten day period allowed if that party seeks appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

Civil Procedure 60(b) Motion be granted. The policy underlying the Federal Rules of Civil Procedure favors decisions on the merits. Adler v. Wal-Mart Stores, 144 F.3d 664 (10<sup>th</sup> Cir. 1998). Federal Rule of Civil Procedure 60 has been referred to as "the grand reservoir of equitable power to do justice in a particular case." Pierce v. Cook & Co., 518 F.2d 720, 722 (10<sup>th</sup> Cir. 1975)(en banc). And the Social Security Act is construed liberally in favor of beneficiaries to effect the act's remedial purpose. Mandrell v. Weinberger, 511 F.2d 1102, 1103 (10<sup>th</sup> Cir. 1975).

**Recommended Disposition**

For these reasons, I recommend that Plaintiff's Motion for Relief from Judgment in Claim for Social Security Disability Benefits be granted and that a scheduling order be entered.

  
\_\_\_\_\_  
Don J. Svet  
UNITED STATES MAGISTRATE JUDGE